

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	From Eric Schwartz re: Draft Memo to Tony Lake on Ogata Meeting (6 pages)	03/09/1993	P1/b(1)
002. email	Schwartz to Samuel Berger re: Case of Haitian Refugee William Corascelan (2 pages)	03/15/1993	P1/b(1)
003. email	From Robert Morley re: Message for Nancy Soderberg (2 pages)	03/18/1993	P1/b(1)
004. email	Schwartz to Richard Clarke et al. re: Feinberg's Draft (4 pages)	04/07/1993	P1/b(1)

COLLECTION:

Clinton Presidential Records
 NSC Emails
 A1-Record (Jan 93-Sept 94) ([Schwartz and Cuba...])
 OA/Box Number: 570000

FOLDER TITLE:

[02/04/1993-05/04/1993]

2011-1039-F
 rs1844

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

P1 National Security Classified Information [(a)(1) of the PRA]
 P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
 P3 Release would violate a Federal statute [(a)(3) of the PRA]
 P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
 P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
 P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

b(1) National security classified information [(b)(1) of the FOIA]
 b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
 b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
 b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
 b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
 b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
 b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
 b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

NATIONAL SECURITY COUNCIL

04-Feb-1993 17:19 EDT

UNCLASSIFIED

MEMORANDUM FOR:

Paul Clarke

(CLARKE)

FROM:

Eric P. Schwartz
(SCHWARTZ)

SUBJECT:

Qs and As: Haiti

Paul: Qs and As on Haiti for after the meeting with the Canadian PM. Because I don't know what they will have spoken about, these are drafted rather generally.

Q. What is U.S. policy with respect to the return of President Aristide?

A. We strongly support the restoration of the democratically elected government of President Aristide, including his ultimate return to Haiti to serve out the remainder of his term.

Q. When should that return take place?

A. There is deep fear and mistrust among all sides in Haiti, and the UN and the OAS are now engaged in a delicate negotiation effort. The timing and circumstances of President Aristide's return should be left to that negotiation process.

Q. Do you plan to meet with President Aristide?

A. Yes.

Q. When?

A. No date has yet been set, but we will be looking to find an appropriate time for a meeting. As you may know, I spoke to President Aristide on January 13, and assured him that my Administration would support promotion of democracy and the restoration of his government.

Q. Human rights groups claim that you have reversed your position on refugees from Haiti, and that the Coast Guard is putting people in harm's way by returning them without hearings? Have you indeed reversed your position?

A. I acted in order to avert a humanitarian tragedy in which thousands could have lost their lives at sea. At the same time, we are undertaking a range of efforts to make in-country refugee processing in Haiti safer, faster, and more accessible to applicants. We are, for example, doubling the rate at which applicants are interviewed for refugee status in Haiti. In addition, just after I assumed office, I sent a technical team down to Haiti to investigate how we could improve in-country processing, and they will be presenting their recommendations to the White House today.

Q. Will you ever end the practice of direct return of boat people?

A. As I have said, I will end the practice of direct returns when I can do so without contributing to a humanitarian tragedy.

CC: Records

(RECORDS)

Additional Header Information Follows

Date Created: 04-Feb-1993 17:00

Deletable Flag: Y

DOCNUM: 000459

VMS Filename: OA\$SHARE5:ZUNNOQW5X.WPL

A1 Folder: FEB93

Message Format:

Message Status: READ

Date Modified: 04-Feb-1993 17:00

Forward Flag: YES

Read-Receipt Requested: NO

Delivery-Receipt Requested: NO

Message Priority: FIRST_CLASS

NATIONAL SECURITY COUNCIL

09-Feb-1993 11:44 EDT

UNCLASSIFIED

MEMORANDUM FOR:

Samuel R. Berger

(BERGER)

FROM:

Eric P. Schwartz
(SCHWARTZ)

SUBJECT:

Meeting today with Rene van Rooyen

Sandy:

You will be seeing Rene van Rooyen of the UNHCR this afternoon at 2 pm. Van Rooyen is the U.S. representative of the UN High Commissioner for the Refugees, Sadako Ogata.

The UNHCR has been a critic of return of refugees without a hearing prior to return, as UNHCR believes this will undermine worldwide protection of refugees. Because the UNHCR regards the U.S. as the leader in the effort to protect refugees, UNHCR has expressed a strong willingness to do whatever it can to assist the U.S. in ending direct return of Haitians. You may find van Rooyen willing to consider almost any arrangement, so long as refugees have some sort of interview prior to being returned to the jurisdiction of the Haitian authorities.

For your information, the State/Justice technical team that returned from Haiti will be recommending greater efforts on board Coast Guard ships to identify people at risk, who could then be directed to the U.S. processing center and given relatively quick access to screening. You may wish to ask Van Rooyen how UNHCR would feel about some sort of U.S. effort to attempt to identify persons at risk while on the Coast Guard boats prior to return. (I would not, however, be specific with van Rooyen as to what the technical team may be recommending.)

Van Rooyen will also ask you about the HIV applicants at Guantanamo. UNHCR is aware that INS believes that many are refugees, and has urged the USG to permit all the applicants into the U.S. to pursue asylum claims.

CC: Records

(RECORDS)

CC: Records

(RECORDS)

Additional Header Information Follows

Date Created: 09-Feb-1993 11:07

Deletable Flag: Y

DOCNUM: 000627

VMS Filename: OA\$SHARE17:ZUNSGRPQU.WPL

A1 Folder: FEB93

Message Format:

Message Status: READ

Date Modified: 09-Feb-1993 11:44

Forward Flag: YES

Read-Receipt Requested: NO

Delivery-Receipt Requested: NO

Message Priority: FIRST_CLASS

NATIONAL SECURITY COUNCIL

18-Feb-1993 10:19 EDT

~~CONFIDENTIAL~~

MEMORANDUM FOR:

Samuel R. Berger

(BERGER)

FROM:

Eric P. Schwartz
(SCHWARTZ)

SUBJECT:

Haitian refugees

Sandy:

Positions of White House advisors and others on the HIV-Haitians options paper:

Carol Rascoe: favors option 2 (allow in the refugees), but could also live with option 1 (letting them all in). She emphasizes the need to truly reimburse the states and consult with Florida officials.

Bernie Nussbaum/Walter Dellinger: favor option 1. They also think that it may be effective politically for the President to indicate he will not drop the HIV ban for immigrants at the same time he is allowing in the Haitians.

Howard Paster: have not heard back, though I have called him twice.

DOJ: In a memo to Tony, Acting AG Gerson, assuming that we are not prepared to send genuine refugees on Guantanamo back to Haiti, said that allowing all 266 of the Haitians into the U.S. best serves our short-term and long-term litigation interests. I have tried to obtain further comments from DOJ (including those of Webb Hubbell), but have yet to hear back).

You should know that the Senate this morning voted, by 76-23, to retain the HIV medical exclusion for immigrants. The provision would permit waivers under certain circumstances for visitors, and requires an HHS study of this issue. The restriction could only be lifted, however, by congressional action.

A Kennedy amendment to put off a decision on this issue (and to keep the current HIV medical exclusion in place for 90 days pending review) was defeated by a vote of 56-42. I am told that the White House ultimately decided not to play a role in the debate.

CC: Records

(RECORDS)

Additional Header Information Follows

Date Created: 18-Feb-1993 09:36

Deletable Flag: Y

DOCNUM: 001016

VMS Filename: OA\$SHARE36:ZUOBERDP8.WPL

A1 Folder: FEB93

Message Format:

Message Status: READ

DECLASSIFIED

E.O. 13526

White House Guidelines, September 11, 2006

By *MA* NARA, Date *3/28/16**201-1039-F*

Date Modified: 18-Feb-1993 10:18
Forward Flag: YES
Read-Receipt Requested: NO
Delivery-Receipt Requested: NO
Message Priority: FIRST_CLASS

NATIONAL SECURITY COUNCIL

23-Feb-1993 21:34 EDT

UNCLASSIFIED

MEMORANDUM FOR:

Samuel R. Berger

(BERGER)

FROM:

Eric P. Schwartz
(SCHWARTZ)

SUBJECT:

Draft congressional letter on Hait: re: litigation

Dear Congressman Winn:

Thank you for the letter of January 27, 1993, signed by you and 18 of your colleagues, regarding policy toward Haitian refugees. I first want to reaffirm my support for human rights and democratization in Haiti, including freedom from persecution for Haitians who have spoken out against repression in their country.

I agree that the restoration of the democratically elected government of President Aristide is the most viable solution to the Haitian crisis. I have expressed these sentiments to President Aristide directly, as did Secretary of State Warren Christopher in a meeting with President Aristide earlier this month. In addition, my Administration has strongly supported the negotiation process undertaken by the United Nations and the Organization of American States, and we have urged other nations, both within and outside the hemisphere, to provide diplomatic and financial support to the UN/OAS effort.

For these reasons, I was greatly encouraged by the recent agreement to deploy UN/OAS human rights monitors in Haiti, and believe that their presence on the ground will enhance the climate for protection of human rights. Moreover, I hope and expect it will create an atmosphere conducive to political dialogue leading to progress in negotiations on a settlement to this crisis.

I also share your concern that, prior to a political settlement, Haitians who seek to express their political opinions will still have reason to fear reprisal, and I believe we must make serious and sustained efforts to help provide them with a measure of protection. The deployment of UN/OAS human rights monitors will contribute significantly to this goal. Moreover, we are taking a number of actions to improve "in-country" processing of Haitian refugees.

Just after assuming office, I directed the Immigration and Naturalization Service (INS), working in conjunction with the State Department, to double the rate at which refugee applicants in Port-au-Prince were interviewed by INS officials. At about the same time, I directed the State Department to send a technical mission to Haiti to develop detailed proposals for instituting a more rapid refugee determination process, making it

easier for Haitians outside Port-au-Prince to apply for refugee status and U.S. resettlement, and enhancing the safety of the repatriation process for returnees. The team, which also included congressional staff and representatives from the INS, returned with a series of recommendations for improvements in the process that are now being implemented by an interagency working group.

Improving in-country processing is a goal of the highest priority for my Administration, and I have authorized the State Department to allocate up to \$5 million for this purpose.

Your letter also raises the issue of direct repatriation of Haitian asylum-seekers. My decision to temporarily maintain the practice of direct return was not an easy one, and was based on my belief that such action was necessary to avert a humanitarian tragedy that would have resulted from a large boat exodus on or shortly after January 20. I feared that hundreds, if not thousands, could have lost their lives in overloaded, unseaworthy vessels.

I do believe that my decision to maintain temporarily the practice of direct return was the correct one, and that the decision was an appropriate exercise of Presidential authority. I also believe it is essential that I retain the ability to take such action when circumstances so demand.

At the same time, I regard the current practice of direct return as a policy for exceptional circumstances. It is continually under review, and will be adjusted when conditions permit. In fact, in the months to come, we will be exploring with other countries in the region options for processing asylum-seekers outside of Haiti.

Throughout the world, the United States has been in the forefront of refugee protection and has played a crucial role in advancing international standards for humanitarian treatment of those who are fleeing persecution and violence. Let me assure you that I will do everything possible to see that we continue to play this important role in the years to come.

CC: Records (RECORDS)
CC: Dona F. Proctor (PROCTOR)

Additional Header Information Follows

Date Created: 23-Feb-1993 21:33
Deletable Flag: Y
DOCNUM: 001258
VMS Filename: OA\$SHARE11:ZUOGUTKT2.WPL
A1 Folder: FEB93
Message Format:
Message Status: READ
Date Modified: 23-Feb-1993 21:33
Forward Flag: YES
Read-Receipt Requested: NO
Delivery-Receipt Requested: NO
Message Priority: FIRST_CLASS

NATIONAL SECURITY COUNCIL

24-Feb-1993 09:52 EDT

UNCLASSIFIED

MEMORANDUM FOR:

W. Anthony K. Lake (LAKE)
Samuel R. Berger (BERGER)

FROM: Eric P. Schwartz
(SCHWARTZ)

SUBJECT: Moving on recommendations for refugee processing in

On February 17, I sent two memos to your offices:

--(0484) recommending that Tony recommend that the President approve a drawdown from the Emergency Migration and Refugee Assistance Account for up to \$5 million dollars, to support improvements in refugee processing;

--(0332) recommending that Tony sign off on a Will Itoh memorandum directing establishment of a working group to implement recommendations of the technical team that travelled to Haiti to explore improvements in in-country processing.

It would help the Solicitor General if he/she could say in Court (on March 2) that these actions are going forward. For this reason, I wonder if it may be possible to act on these two memos.

CC: Records

(RECORDS)

Additional Header Information Follows

Date Created: 24-Feb-1993 09:09
Deletable Flag: Y
DOCNUM: 001294
VMS Filename: OA\$SHARE39:ZUOHE3KFZ.WPL
A1 Folder: FEB93
Message Format:
Message Status: READ
Date Modified: 24-Feb-1993 09:09
Forward Flag: YES
Read-Receipt Requested: NO
Delivery-Receipt Requested: NO
Message Priority: FIRST_CLASS

NATIONAL SECURITY COUNCIL

27-Feb-1993 09:43 EDT

UNCLASSIFIED

MEMORANDUM FOR:

Samuel R. Berger

(BERGER)

FROM:

Eric P. Schwartz
(SCHWARTZ)

SUBJECT:

Conversation with Bernie Nussbaum

Sandy:

FYI:

Bernie Nussbaum asked me last night for an update on where we were on the various Haiti refugee-related issues, and I explained that we were now hoping to get four things from the President by Monday:

sign off on the letter to Rep. Wynn explaining his position on the refugee-related issues;

sign off on the request to fund improvements in in-country processing;

a decision on the HIV applicants at Guantanamo;

a decision on the court case.

Bernie asked me for copies of the memos that were prepared on each of these issues. I expect he plans to raise them with the President if he can.

I thought you should know this, especially as I don't know whether all of the memos have yet made it to the President's desk.

CC: Records

(RECORDS)

Additional Header Information Follows

Date Created: 27-Feb-1993 09:43

Deletable Flag: Y

DOCNUM: 001500

VMS Filename: OA\$SHARE11:ZUOKDW448.WPL

A1 Folder: FEB93

Message Format:

Message Status: READ

Date Modified: 27-Feb-1993 09:43

Forward Flag: YES

Read-Receipt Requested: NO

Delivery-Receipt Requested: NO
Message Priority: FIRST_CLASS

NATIONAL SECURITY COUNCIL

27-Feb-1993 15:37 EDT

UNCLASSIFIED

MEMORANDUM FOR:

Joan S. Hunerwadel (HUNERWADEL)
Donald G. Gross (GROSS)

FROM: Eric P. Schwartz
(SCHWARTZ)

SUBJECT: Letter from the President to Rep. Wynn

The President signed the letter to Rep. Wynn on Saturday, action 0755. The letter was faxed to Wynn's office on Saturday, and will be couriered to him on Monday, so that we are sure he has it before the text is released publicly. At the same time, would you, Don, ask in your shop how we should deal with the other 18 members who co-signed the letter. Then let Joan in my office know, and she can prepare a necessary add-on to action 0755. In the meantime, I will work with Sandy and the press operation on the release, on Tuesday (the day of the Court hearing on this issue), of the letter as well as release of an announcement that the President is going to spend additional monies to improve refugee processing in Haiti.

Many thanks.

CC: Records (RECORDS)
CC: Records (RECORDS)

Additional Header Information Follows

Date Created: 27-Feb-1993 15:28
Deletable Flag: Y
DOCNUM: 001513
VMS Filename: OA\$SHARE20:ZUOKMBMBE.WPL
A1 Folder: FEB93
Message Format:
Message Status: READ
Date Modified: 27-Feb-1993 15:37
Forward Flag: YES
Read-Receipt Requested: NO
Delivery-Receipt Requested: NO
Message Priority: FIRST_CLASS

NATIONAL SECURITY COUNCIL

28-Feb-1993 15:22 EDT

~~CONFIDENTIAL~~

MEMORANDUM FOR: SEE BELOW

FROM: Eric P. Schwartz
(SCHWARTZ)

SUBJECT: Haiti

Jim:

The President made a number of Haiti related decisions on Saturday, including:

1. accepting option 2 from the court case memo: that is, in the Supreme Court on March 2, the Administration will defend direct return without abandoning the previous Administration's legal arguments, but will try to bring forward the Clinton policy orientation: direct return is necessary because of exigent circumstances, that we are trying to restore democracy, etc.
2. deferring a decision (until perhaps this week) on the HIV Haitians.
3. Providing \$5 million from the Refugee Bureau's Emergency Refugee Migration Fund to improve in-country processing for refugees, announcement of which will be made on March 2.
4. Sending a letter to 19 members of Congress (who wrote to urge an end to direct return), explaining what we are doing on promoting democracy and improving in-country processing, and indicating that the direct return policy is a policy for exceptional circumstances, is continually under review, and will be modified when conditions permit. This letter will also be released publicly.

Distribution:

FOR: James A. Carman	(CARMAN)
FOR: Nancy Soderberg	(SODERBERG)
FOR: Richard A. Clarke	(CLARKER)
FOR: Rand R. Beers	(BEERS)
CC: Records	(RECORDS)
CC: Records	(RECORDS)

Additional Header Information Follows

Date Created: 28-Feb-1993 15:15
Deletable Flag: Y
DOCNUM: 001524
VMS Filename: OA\$SHARE17:ZUOLLYRXF.WPL
A1 Folder: FEB93
Message Format:
Message Status: READ
Date Modified: 28-Feb-1993 15:22
Forward Flag: YES
Read-Receipt Requested: NO

DECLASSIFIED
E.O. 13526
White House Guidelines, September 11, 2006
By AN NARA, Date 3/24/16
2011-1039-P

Delivery-Receipt Requested: NO
Message Priority: FIRST_CLASS

NATIONAL SECURITY COUNCIL

01-Mar-1993 11:51 EDT

UNCLASSIFIED

MEMORANDUM FOR:

Richard E. Feinberg

(FEINBERG)

FROM:

Eric P. Schwartz
(SCHWARTZ)

SUBJECT:

Haiti statement for release tomorrow

Memorandum

To: Richard Feinberg
Fr: Eric Schwartz

Subject: Haiti: draft statement.

Attached is a draft statement, revised and approved by Sandy, to be released tomorrow. Please give me your OK as soon as possible.

DRAFT STATEMENT

On March 2, the Supreme Court will hear arguments concerning the current repatriation policy regarding Haitian asylum-seekers.

The President has concluded that the practice of direct return should be maintained for the time being. The decision was based on the President's conviction that such action is necessary to avert a humanitarian tragedy that could result from a large boat exodus. Hundreds, if not thousands, could lose their lives in overloaded, unseaworthy vessels if we were to reverse the practice of direct return precipitously.

The President believes it essential that he retain the ability to implement such measures when circumstances demand. For this reason, the Solicitor General will support the President's legal authority to take these actions when the issue is considered by the Supreme Court.

At the same time, the President regards the current practice of direct return as a policy for exceptional circumstances. It is continually under review, and will be adjusted when conditions permit.

In addition, the President is taking a series of initiatives to promote human rights and democratization in Haiti and to enhance the safety and well-being of those who have reason to fear persecution.

First, the Clinton Administration has strongly supported the negotiation process undertaken by the United Nations and the Organization of American States (UN/OAS), and has urged other nations, both within and outside the hemisphere, to provide diplomatic and financial support to the UN/OAS effort. A UN/OAS civilian monitoring team now is being deployed in Haiti, and we hope and expect that their presence will create an atmosphere conducive to respect for human rights and political dialogue, including progress in negotiations and a settlement to this crisis.

The President will continue the effort to move the process forward as expeditiously as possible, leading to the restoration of the democratically elected government and the return of President Aristide. The President will meet with President Aristide on March 16 to review the progress that has been achieved and the challenges that lie ahead.

The President also is committed to serious efforts to enhance the safety and well-being of those who have reason to fear reprisal for their political activities and affiliations, and has taken a number of actions to improve in-country processing of Haitian

refugees -- the procedures by which Haitians in Haiti may apply for refugee status and resettlement in the United States.

Shortly after January 20, the President directed that U.S. officials double the rate at which refugee applicants Haiti are interviewed by Immigration and Naturalization Service officials. In fact, since January 20, INS has reduced the processing time for refugee applications from two months or more to about one week in most cases. The President also directed the State Department to send a technical mission to Haiti to develop detailed proposals for:

- more rapid refugee processing;

- making it easier for Haitians outside of Port-au-Prince to apply for refugee status and U.S. resettlement; and

- enhancing the safety of the repatriation process for returnees.

The team, which also included congressional staff and representatives from the INS, recently returned from Haiti. In addition to the progress already made in speeding refugee processing, the team made a series of additional recommendations for improvements in the procedures, including the addition of personnel at the U.S. Refugee Processing Center to serve as liaison with human rights groups and as a resource for INS adjudicators; procedures for identifying those who may be especially at risk; and the establishment of Processing Centers outside of Port-au-Prince to enhance access to the program for Haitians throughout Haiti.

Based on these and other recommendations made by the team, the President has directed that U.S. officials implement further improvements in the process.

To accomplish these goals, the President is authorizing expenditure of up to \$5 million from the Emergency Refugee and Migration Assistance Fund (ERMA).

The United States has been in the forefront of refugee protection around the world. We will continue to play this important role in the years to come.

CC: Records

(RECORDS)

Additional Header Information Follows

Date Created: 01-Mar-1993 11:51
Deletable Flag: N
DOCNUM: 001565
VMS Filename: OA\$SHARE32:ZUOMGXWUQ.WPL
A1 Folder: MAR93
Message Format:
Message Status: NOTED
Date Modified: 01-Mar-1993 11:51
Forward Flag: YES
Read-Receipt Requested: NO
Delivery-Receipt Requested: NO
Message Priority: FIRST_CLASS

NATIONAL SECURITY COUNCIL

02-Mar-1993 09:15 EDT

UNCLASSIFIED

MEMORANDUM FOR:

Samuel R. Berger

(BERGER)

FROM:

Eric P. Schwartz
(SCHWARTZ)

SUBJECT:

suggested fixes

Sandy:

I just spoke to the head of the Refugee Processing Center in Port-au-Prince and learned that the State Department's information was not precisely accurate.

Here is the fix I propose:

On increasing INS processing capacity:

"Shortly after January 20, the President directed that U.S. officials double our capacity for interviewing of refugee applicants by officials of the INS." [This is substantially the same as what we already have; it is just more precise.]

On reducing processing time:

"Since return of the technical team, we have streamlined procedures and added staff in Port-au-Prince, and have reduced considerably the processing time for refugee applications in Haiti. Our goal is to reduce processing time from two months or more to as few as seven working days, especially in those cases with strong prima facie refugee claims."

CC: Records

(RECORDS)

Additional Header Information Follows

Date Created: 02-Mar-1993 09:10

Deletable Flag: N

DOCNUM: 001631

VMS Filename: OA\$SHARE1:ZUOND88MD.WPL

A1 Folder: MAR93

Message Format:

Message Status: NOTED

Date Modified: 02-Mar-1993 09:10

Forward Flag: YES

Read-Receipt Requested: NO

Delivery-Receipt Requested: NO
Message Priority: FIRST_CLASS

NATIONAL SECURITY COUNCIL

02-Mar-1993 11:43 EDT

UNCLASSIFIED

MEMORANDUM FOR:

Barbro A. Owens-Kirkpatrick (OWENS)
Richard E. Feinberg (FEINBERG)

FROM: Eric P. Schwartz
(SCHWARTZ)

SUBJECT: Haiti: press guidance

I've enclosed press guidance for the press briefing today.

Richard, if you are redoing the draft for Sandy, I'd be grateful to see a copy.
If you would like me to take a shot at it, let me know.

Eric

CC: Records (RECORDS)

Additional Header Information Follows

Date Created: 02-Mar-1993 11:41
Deletable Flag: N
DOCNUM: 001649
VMS Filename: OA\$SHARE30:ZUONGR53Z.WPL
A1 Folder: MAR93
Message Format:
Message Status: NOTED
Date Modified: 02-Mar-1993 11:41
Forward Flag: YES
Read-Receipt Requested: NO
Delivery-Receipt Requested: NO
Message Priority: FIRST_CLASS

NATIONAL SECURITY COUNCIL

02-Mar-1993 11:41 EDT

UNCLASSIFIED

MEMORANDUM FOR:

Paul Clarke (CLARKE)
Nancy Soderberg (SODERBERG)

FROM: Eric P. Schwartz
(SCHWARTZ)

SUBJECT: Press guidance: today's briefing: Haitian refugees

CC: Records

(RECORDS)

DRAFT Qs and As

Q: How do you account for the Administration's reversal of position in the Supreme Court this morning?

A: As you know, the President has concluded that the practice of direct return should be maintained for the time being. This decision was based on the President's conviction that such action is necessary to avert a humanitarian tragedy that could result from a large boat exodus. Hundreds, if not thousands, could lose their lives in overloaded, unseaworthy vessels if we were to reverse the practice of direct return precipitously.

The President believes it essential that he retain the ability to implement such measures when circumstances demand. For this reason, the Solicitor General supported the President's legal authority to take these actions this morning.

Q: Isn't this another campaign promise broken?

A: The President has to respond to circumstances as they develop, and reconsider his positions where appropriate. At this point, he strongly believes that a precipitous change in the direct return practice would be irresponsible.

At the same time, the President regards the current practice of direct return as a policy for exceptional circumstances. It is continually under review, and will be adjusted when conditions permit.

In addition, the President is taking a series of initiatives to promote human rights and democratization in Haiti and to enhance the safety and well-being of those who have reason to fear persecution.

We have strongly supported the negotiation process undertaken by the United Nations and the Organization of American States (UN/OAS). A UN/OAS civilian monitoring team now is being deployed in Haiti, and we hope and expect that their presence will create an atmosphere conducive to respect for human rights and political dialogue, including progress in negotiations, a settlement to this crisis, the restoration of democratic government, and the return of President Aristide.

The President will meet with President Aristide on March 16 to review the progress that has been achieved and the challenges that lie ahead.

The President also is committed to serious efforts to enhance the safety and well-being of those who have reason to fear reprisal for their political activities and affiliations, and has taken a number of actions to improve in-country processing of Haitian refugees -- the procedures

by which Haitians in Haiti may apply for refugee status and

resettlement in the United States.

We have doubled our capacity for the interviewing of refugee applicants in Haiti by officials of the Immigration and Naturalization Service.

We have increased staffing at the Refugee Processing Center in Port-au-Prince, and streamlined procedures so that processing time for refugee applications has been reduced considerably.

In addition, the President has authorized expenditure of up to \$5 million from the Emergency Refugee Migration Assistance Account (ERMA) to implement additional improvements that will make it easier for Haitians outside of Port-au-Prince to apply for refugee status and U.S. resettlement and enhance the safety of the repatriation process.

Q: What kind of improvements will be implemented?

A: The improvements will be based on recommendations of a State Department technical team that travelled to Haiti at the President's direction in late January. The team, which also included congressional staff and representatives from the Immigration and Naturalization Service, called for the addition of personnel at the U.S. Refugee Processing Center to serve as liaison with human rights groups and as a resource for INS adjudicators; procedures for identifying and processing those who may be especially at risk; and the establishment of processing centers outside of Port-au-Prince to enhance access to the program for Haitians throughout Haiti.

Q. What kind of staffing changes have taken place?

A: Three additional INS officers have been added to the adjudication staff at the processing center in Port-au-Prince. Moreover, the International Organization for Migration -- the intergovernmental agency that assists us in refugee processing -- has expanded its case preparation staff from 16 to 29.

Q. What is the status of the report of the technical team on refugee processing?

A: The technical team has completed its report. The team's findings and recommendations are currently being considered by an interagency task force.

Q. Is the team's report available?

A. The team's report is an internal document, but we are certainly willing to release a public report containing the team's findings and recommendations.

Q. How many Haitians have applied for refugee status in Haiti?

A. More than 8000 Haitians have completed preliminary applications, and about 3244 have been interviewed by the INS. Of these, 348 have been approved for refugee status, and 231 have

arrived in the U.S. 2890 have been rejected.

NATIONAL SECURITY COUNCIL

04-Mar-1993 15:10 EDT

UNCLASSIFIED

MEMORANDUM FOR:

Jane E. Holl (HOLL)
Jenonne R. Walker (WALKER)

FROM: Eric P. Schwartz
(SCHWARTZ)

SUBJECT: Meeting between Mrs. Ogata of UNHCR and Tony

Mrs. Ogata will be seeing Tony on Wednesday, March 12, at 11 am. State tells me that she will be primarily interested in discussing Haiti, Bosnia, and Somalia, though I will be checking with friends at UNHCR to get more detailed information as to what we should expect.

I'm putting together a briefing memorandum for Tony, and can include the Bosnia portion of it in any way you wish: I'd be willing to draft something, or to take a one-page contribution from you and incorporate it. In general, I'm trying to divide each issue into the following parts: 1) the UNHCR role in the particular issue; 2) what we want from them; 3) what they want from us.

Tony's assistant tells me that his office can hold eight comfortably. I propose the following list of attendees:

Mrs. Ogata + 2
Warren Zimmerman (RP)
Tony
Dick Clarke (UNHCR funding issues, Somalia)
Eric Schwartz (Haiti, general refugee issues)
Jane Holl or Jenonne Walker (Bosnia) (I expect that you both could attend if you wish; let me know and I can check with Tony's secretary.)

Please let me know how you want to proceed on the memo.

CC: Records (RECORDS)

Additional Header Information Follows

Date Created: 04-Mar-1993 14:52
Deletable Flag: N
DOCNUM: 001863
VMS Filename: OA\$SHARE41:ZUOPL0U45.WPL
A1 Folder: MAR93
Message Format:
Message Status: NOTED
Date Modified: 04-Mar-1993 15:10
Forward Flag: YES
Read-Receipt Requested: NO
Delivery-Receipt Requested: NO

Message Priority: FIRST_CLASS

NATIONAL SECURITY COUNCIL

05-Mar-1993 10:01 EDT

UNCLASSIFIED

MEMORANDUM FOR: SEE BELOW

FROM: Eric P. Schwartz
(SCHWARTZ)

SUBJECT: Meeting with Catholic bishops

I have just seen a copy of Tony's memorandum to the President on a meeting with the Catholic Bishops today.

It occurs to me that the bishops may also raise Haitian refugee issues. (The President has been briefed on the issues they are likely to raise.) If they do, they will likely call for:

 permitting the HIV-positive Haitians (264, including family members) into the U.S. to pursue their asylum claims.

The bishops are likely to argue that this is the only humane solution to this difficult problem; that all the Haitians have credible claims to refugee status; that continued detention at Guantanamo is unacceptable; and that the U.S. Catholic Conference would be willing to assist in their resettlement.

 ending the practice of direct return of Haitian asylum-seekers.

The bishops are likely to claim that the policy creates the possibility that we are returning refugees to their persecutors (notwithstanding efforts to improve in-country processing), and that the policy is biased, as we treat Haitians differently than others.

I have attached a short briefing paper, as there is no time to put anything through the system formally.

Catholic Bishops and Haiti
March 5 meeting with the President

The bishops may raise Haitian refugee issues at this meeting. The U.S. Catholic Conference, a service arm of the Catholic Church, has played important role on refugee issues, both as an advocate for refugee rights and as a service provider for refugees who resettle here.

If Haiti is on their agenda, the bishops will likely call for:

1) Permitting the HIV-positive Haitians (264, including family members) into the U.S. to pursue their asylum claims.

The bishops are likely to argue that this is the only humane solution to this difficult problem; that all the Haitians have credible claims to refugee status; that continued detention at

Guantanamo is unacceptable; and that the U.S. Catholic Conference would be willing to assist in their resettlement.

2) Ending the practice of direct return of Haitian asylum-seekers.

The bishops are likely to claim that the policy creates the possibility that we are returning refugees to their persecutors (notwithstanding efforts to improve in-country processing), and that the policy is biased, as we treat Haitians differently than others.

Finally, you should be aware that the Vatican is only lukewarm about Aristide, in view of serious conflicts he had with the Catholic hierarchy in Haiti. Nonetheless, the U.S. Catholic bishops will probably express support for restoration of democracy and return of Aristide, provided such return is accompanied by guarantees of a safe political environment (i.e., an environment in which the Catholic hierarchy in Haiti is not threatened).

TALKING POINTS: HAITIANS AT GUANTANAMO

--I agree that this is a compelling issue that must be dealt with in a manner that is sensitive to the humanitarian needs of the Haitians.

--We are carefully reviewing the issue, and will take your perspectives into account as we make policy decisions on this matter.

TALKING POINTS: DIRECT RETURN OF HAITIAN ASYLUM-SEEKERS

--I maintained the practice of direct return because I concluded that it was the best way to save lives.

--I feared that hundreds, if not thousands, could die at sea if there was a large boat exodus after January 20.

--However, this is a policy for exceptional circumstances, is under continual review, and will be modified when conditions permit.

--In addition, we are undertaking substantial efforts to improve in-country refugee processing in Haiti.

--We have added nearly 20 people to our processing staff in Port-au-Prince, and now have the capacity to process high priority cases in about seven days, where previously it could take two months or more to process such cases.

--I also have authorized expenditures of up to \$5 million from the Emergency Refugee and Migration Assistance account to finance further improvements designed to make procedures safer and more accessible.

--An interagency team has been established to implement improvements, including the possible establishment of processing centers outside of Port-au-Prince, to make it easier for Haitians

in the countryside to apply for refugee status.

--Finally, and most importantly, I am committed to the restoration of democratic government in Haiti, which is the best, and most enduring, way to deal with the issue of flight from Haiti.

--I have strongly supported the deployment of human rights monitors in Haiti, and we are encouraging the UN/OAS negotiator to pursue vigorous negotiations on a comprehensive settlement to the political crisis.

Distribution:

FOR: W. Anthony K. Lake	(LAKE)
FOR: Samuel R. Berger	(BERGER)
CC: Records	(RECORDS)
CC: Richard E. Feinberg	(FEINBERG)
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CC: Rand R. Beers	(BEERS)
CC: Richard A. Clarke	(CLARKER)
CC: William H. Itoh	(ITOH)

Additional Header Information Follows

Date Created: 05-Mar-1993 10:00
Deletable Flag: N
DOCNUM: 001924
VMS Filename: OA\$SHARE10:ZUOQEBYSQ.WPL
A1 Folder: MAR93
Message Format:
Message Status: NOTED
Date Modified: 05-Mar-1993 10:00
Forward Flag: YES
Read-Receipt Requested: NO
Delivery-Receipt Requested: NO
Message Priority: FIRST_CLASS

NATIONAL SECURITY COUNCIL

08-Mar-1993 09:22 EDT

UNCLASSIFIED

MEMORANDUM FOR:

Richard E. Feinberg (FEINBERG)
Barbro A. Owens-Kirkpatrick (OWENS)
Richard A. Clarke (CLARKER)

FROM: Eric P. Schwartz
(SCHWARTZ)

SUBJECT: Need concurrence urgently! Please let me know.

Memroandum

To: tony Lake
fR: Eric Schwartz

Subject: Meeting between the President and members of the
Congressional Black Caucus, 5 pm, Monday, March 8.

The President meets today with the membership of the
Congressional Black Caucus, and Haiti will be on the agenda of
CBC members. I have included a short background memorandum and
talking points for the President.

RECOMMENDATION

That you sign the enclosed memorandum.

Memo from Tony Lake to the President

Subject: Meeting with the Congressional Black Caucus:
The Haiti issue.

BACKGROUND

You meet today at 5 pm with the membership of the Congressional
Black Caucus (CBC). Howard Paster has already provided you with
a background memorandum for this meeting which indicates that CBC
members are likely to raise the Haiti issue.

Howard indicates that CBC members have refrained from public
statements about your Haiti policy in the hope that the Aristide
meeting prodgues some sure signes of progress. While this is
generally accurate, a number of CBC members, including Charlie
Rangel, have been publicly critical of current policy on Haitian

refugees.

At the meeting, CBC members are likely to call for:

1) Stronger U.S. efforts to secure the return of President Aristide.

In particular, they may call for a tightening of sanctions and echo Aristide's recent call for setting a date for his actual return.

2) Permitting the HIV-positive Haitians on Guantanamo (262, including family members) into the U.S. to pursue their asylum claims.

CBC members are likely to argue that this is the only humane solution to this difficult problem; that all the Haitians have credible claims to refugee status; and that continued detention at Guantanamo is unacceptable.

3) Ending the practice of direct return of Haitian asylum-seekers.

CBC members will claim that we are returning refugees to their persecutors (notwithstanding efforts to improve in-country processing), and that the policy is biased, as we treat Haitians differently than others.

TALKING POINTS: DEMOCRACY IN HAITI

--I have strongly supported the negotiating process undertaken by the United Nations and the Organization of American States, and we have urged other nations, both within and outside the

hemisphere, to provide diplomatic and financial support to the UN/OAS effort.

--I am encouraged by the deployment of a UN/OAS monitoring team to Haiti, and I hope and expect that their presence will create an atmosphere conducive to respect for human rights and political dialogue.

--As you know, I will see President Aristide on March 16 to review the progress that has been achieved and the challenges that lie ahead.

--While we are not in a position to specify a date certain for President Aristide's return, I am committed not only to the restoration of his government but to his return under circumstances where he can govern effectively.

--The UN negotiator, Dante Caputo, is about to begin negotiations leading to a political settlement to this crisis.

--I assure you that we will strongly support Caputo's effort, and that we are prepared to act forcefully if we encounter military intransigence.

TALKING POINTS: HIV POSITIVE HAITIANS AT GUANTANAMO

--I agree that this is a compelling issue that must be dealt with in a manner that is sensitive to the humanitarian needs of the Haitians.

--We are carefully reviewing the issue, and will take your perspectives into account as we make policy decisions on this matter.

TALKING POINTS: DIRECT RETURN OF HAITIAN ASYLUM-SEEKERS

--I maintained the practice of direct return because I concluded that it was the best way to save lives.

--I feared that hundreds, if not thousands, could die at sea if there was a large boat exodus after January 20.

--However, this is a policy for exceptional circumstances, is under continual review, and will be modified when conditions permit.

--In addition, we are undertaking substantial efforts to improve in-country refugee processing in Haiti.

--We have added nearly 20 people to our processing staff in Port-au-Prince, and now have the capacity to process high priority

cases in about seven days, where previously it could take two months or more to process such cases.

--I also have authorized expenditures of up to \$5 million from the Emergency Refugee and Migration Assistance account to finance further improvements designed to make procedures safer and more accessible.

--An interagency team has been established to implement improvements, including the possible establishment of processing centers outside of Port-au-Prince, to make it easier for Haitians in the countryside to apply for refugee status.

--Finally, and most importantly, I am committed to the restoration of democratic government and economic development in Haiti, which represent the best, and most enduring, solutions to the problem of flight.

CC: Records (RECORDS)
CC: Rand R. Beers (BEERS)

Additional Header Information Follows

Date Created: 08-Mar-1993 09:21
Deletable Flag: N
DOCNUM: 002011
VMS Filename: OA\$SHARE20:ZUOTDENLS.WPL
A1 Folder: MAR93
Message Format:
Message Status: NOTED
Date Modified: 08-Mar-1993 09:21
Forward Flag: YES
Read-Receipt Requested: NO

Delivery-Receipt Requested: NO
Message Priority: FIRST_CLASS

NATIONAL SECURITY COUNCIL

08-Mar-1993 20:02 EDT

UNCLASSIFIED

MEMORANDUM FOR:

Richard E. Feinberg (FEINBERG)
Barbro A. Owens-Kirkpatrick (OWENS)

FROM: Eric P. Schwartz
(SCHWARTZ)

SUBJECT: Refugees paragraph

Please run this by Richard to make sure it is what he needs.

VI. The Refugee Issue.

A political settlement will reduce incentives for boat departures, as it will enhance the prospects for respect for human rights and for economic development. Even with a settlement, however, there will be Haitians who continue to flee Haiti by boat. Moreover, a small number may have valid claims to refugee status despite the existence of a democratic government. Thus, beyond your present actions to improve in-country refugee processing, you will ultimately have to decide whether some sort of refugee screening prior to return should be reinstituted. While resuming such procedures would be a challenge, it will be much more feasible in the context of an end to the current political crisis in Haiti.

CC: Records (RECORDS)

Additional Header Information Follows

Date Created: 08-Mar-1993 20:01
Deletable Flag: N
DOCNUM: 002085
VMS Filename: OA\$SHARE17:ZUOTSLPD9.WPL
A1 Folder: MAR93
Message Format:
Message Status: NOTED
Date Modified: 08-Mar-1993 20:01
Forward Flag: YES
Read-Receipt Requested: NO
Delivery-Receipt Requested: NO
Message Priority: FIRST_CLASS

NATIONAL SECURITY COUNCIL

09-Mar-1993 07:28 EDT

~~CONFIDENTIAL~~

MEMORANDUM FOR:

Richard A. Clarke

(CLARKER)

FROM:

Eric P. Schwartz
(SCHWARTZ)

SUBJECT:

Schwartz's activities

Update on what I'm up to:

Clinton asked Sandy for three one-page memos: on in-country processing, on a NY Times article about an INS screw up on one refugee case in Haiti, and on why we detain people in immigration jail in Florida. That is this morning's rush job, for Sandy's 9 am with the President.

Second, Ogata is in town tomorrow, and, at this point, the tentative plan is that she will see Tony at 11 am. I am assuming you will want to be there, and am preparing a draft paper for Tony that will circulate this morning.

Third, on Haiti...There was a high level meeting on strategy at the State Department on Saturday (Christopher, Lake, etc.), which Feinberg attended but which I did not know about. So I spoke to Sandy yesterday about my role in all of this. I mentioned not only the refugee angle, but also the UN aspect as relevant to the work of our office. Without prompting on my part, Sandy strongly assured me that he wanted me involved in all aspects of Haiti policy (including diplomatic), while at the same time indicating that Richard's office would have to take the lead on the diplomatic side. I left the conversation very much reassured. Richard is aware of Sandy's feelings, so I think we are in pretty good shape. I've been called to a meeting in Sandy's office this morning, which I assume Richard will attend. I think this will be a "where do we stand" meeting, and I will report back to you afterwards.

Fourth, we need to speak on what, if anything, you want me to do on these border security issues.

CC: Records

(RECORDS)

CC: Rand R. Beers

(BEERS)

Additional Header Information Follows

Date Created: 09-Mar-1993 07:27

Deletable Flag: N

DOCNUM: 002100

VMS Filename: OA\$SHARE52:ZUOUA05FC.WPL

A1 Folder: MAR93

DECLASSIFIED

E.O. 13526

White House Guidelines, September 11, 2006

By MI NARA, Date 3/28/16

2011-1039-F

Message Format:
Message Status: NOTED
Date Modified: 09-Mar-1993 07:27
Forward Flag: YES
Read-Receipt Requested: NO
Delivery-Receipt Requested: NO
Message Priority: FIRST_CLASS

NATIONAL SECURITY COUNCIL

09-Mar-1993 08:38 EDT

UNCLASSIFIED

MEMORANDUM FOR:

Barbro A. Owens-Kirkpatrick (OWENS)
Eric P. Schwartz (SCHWARTZ)

FROM: Natalie S. Wozniak
(WOZNIAK)

SUBJECT: Need Update For: Haitian Refugees

Haitian Refugees

Q: How do you account for the President's reversal of position on Haiti?

A: As you know, the President has concluded that the practice of direct return should be maintained for the time being.

This decision was based on the President's conviction that such action is necessary to avert a humanitarian tragedy that could result from a large boat exodus.

Hundreds, if not thousands, could lose their lives in overloaded, unseaworthy vessels if we were to reverse the practice of direct return precipitously.

The President believes it essential that he retain the ability to implement such measures when circumstances demand.

For this reason, the Solicitor General supported the President's legal authority to take these actions this morning.

Q: Isn't this another campaign promise broken?

A: The President has to respond to circumstances as they develop, and reconsider his positions where appropriate.

At this point, he strongly believes that a precipitous change in the direct return practice would be irresponsible.

At the same time, the President regards the current practice of direct return as a policy for exceptional circumstances.

It is continually under review, and will be adjusted when conditions permit.

In addition, the President is taking a series of initiatives to promote human rights and democratization in Haiti and to enhance the safety and well-being of those who have reason to fear persecution.

We have strongly supported the negotiation process undertaken by the United Nations and the Organization of American States (UN/OAS).

A UN/OAS civilian monitoring team now is being deployed in Haiti, and we hope and expect that their presence will create an atmosphere conducive to respect for human rights and political dialogue, including progress in negotiations, a settlement to this crisis, the restoration of democratic government, and the return of President Aristide.

The President will meet with President Aristide on March 16 to review the progress that has been achieved and the challenges that lie ahead.

The President also is committed to serious efforts to enhance the safety and well-being of those who have reason to fear reprisal for their political activities and affiliations, and has taken a number of actions to improve in-country processing of Haitian refugees -- the procedures by which Haitians in Haiti may apply for refugee status and resettlement in the United States.

We have doubled our capacity for the interviewing of refugee applicants in Haiti by officials of the Immigration and Naturalization Service.

We have increased staffing at the Refugee Processing Center in Port-au-Prince, and streamlined procedures so that processing time for refugee applications has been reduced considerably.

In addition, the President has authorized expenditure of up to \$5 million from the Emergency Refugee Migration Assistance Account (ERMA) to implement additional improvements that will make it easier for Haitians outside of Port-au-Prince to apply for refugee status and U.S. resettlement and enhance the safety of the repatriation process.

Q: What kind of improvements will be implemented?

A: The improvements will be based on recommendations of a State Department technical team that travelled to Haiti at the President's direction in late January.

The team, which also included congressional staff and representatives from the Immigration and Naturalization Service, called for the addition of personnel at the U.S. Refugee Processing Center to serve as liaison with human rights groups and as a resource for INS adjudicators; procedures for identifying and processing

those who may be especially at risk; and the establishment of processing centers outside of Port-au-Prince to enhance access to the program for Haitians throughout Haiti.

Q: What kind of staffing changes have taken place?

A: Three additional INS officers have been added to the adjudication staff at the processing center in Port-au-Prince.

Moreover, the International Organization for Migration -- the intergovernmental agency that assists us in refugee processing -- has expanded its case preparation staff from 16 to 29.

Q: What is the status of the report of the technical team on refugee processing?

A: The technical team has completed its report.

The team's findings and recommendations are currently being considered by an interagency task force.

Q: Is the team's report available?

A: The team's report is an internal document, but we are certainly willing to release a public report containing the team's findings and recommendations.

CC: Records (RECORDS)
CC: Paul Clarke (CLARKE)

Additional Header Information Follows

Date Created: 09-Mar-1993 08:37
Deletable Flag: N
DOCNUM: 002109
VMS Filename: OA\$SHARE6:ZUOUCC64M.WPL
A1 Folder: MAR93
Message Format:
Message Status: NOTED
Date Modified: 09-Mar-1993 08:37
Forward Flag: YES
Read-Receipt Requested: NO
Delivery-Receipt Requested: NO
Message Priority: FIRST_CLASS

NATIONAL SECURITY COUNCIL

09-Mar-1993 08:56 EDT

UNCLASSIFIED

MEMORANDUM FOR:

Richard A. Clarke (CLARKER)
Rand R. Beers (BEERS)
Richard E. Feinberg (FEINBERG)
Barbro A. Owens-Kirkpatrick (OWENS)

FROM: Eric P. Schwartz
(SCHWARTZ)

SUBJECT: fyi: more memos for Berger mtg with Pres.

Sandy asked for three memos for an early meeting with the President. Here are two; you should have already received the third.

CC: Records (RECORDS)

Additional Header Information Follows

Date Created: 09-Mar-1993 08:54
Deletable Flag: N
DOCNUM: 002112
VMS Filename: OA\$SHARE50:ZUOUCRLV4.WPL
A1 Folder: MAR93
Message Format:
Message Status: NOTED
Date Modified: 09-Mar-1993 08:54
Forward Flag: YES
Read-Receipt Requested: NO
Delivery-Receipt Requested: NO
Message Priority: FIRST_CLASS

NATIONAL SECURITY COUNCIL

09-Mar-1993 08:19 EDT

~~CONFIDENTIAL~~

MEMORANDUM FOR:

Samuel R. Berger (BERGER)

FROM: Eric P. Schwartz
(SCHWARTZ)

SUBJECT: First two of three memos

CC: Records (RECORDS)

DECLASSIFIED
E.O. 13526
White House Guidelines, September 11, 2006
By *MA* NARA, Date *3/28/16*
2011-1039-F

March 2 New York Times article on Refugee Processing in Haiti

I. CRITICISMS CONTAINED IN THE ARTICLE.

On March 2, the New York Times reported that, despite promises to sharply increase refugee processing in Haiti, asylum procedures in Haiti remain largely unchanged.

The article quotes State Department and Immigration and Naturalization Service officials as acknowledging that the we have been slow to form a new approach, but that processing in Port-au-Prince would be doubled to about 200 within a week, and that the "turnaround time" required to process an application completely would likewise be quickened to an average of one week.

In the article, refugee advocates criticize the in-country processing, noting that the offices of the U.S. Refugee Processing Center are in downtown Port-au-Prince, and that applicants have been discouraged by the fear of exposure during the application process and the duration of bureaucratic procedures, "which involve several layers of screening, health checkups and placement in the United States by voluntary agencies before being ushered out of the country."

II. COMMENTS ON THE ARTICLE.

While a number of the improvements we intend to implement have not yet been made, the article is unfair, as it underplays, or simply does not mention, changes that have been made since January 20. And in some cases, the article is not accurate. For example, at the time the article was written, we had already:

1. More than doubled the interviewing capacity of the Immigration and Naturalization Service, from about 100 interviews per week to over 200.

2. Speeded up processing procedures (such as health checks) for all applicants. Previously processing could take two months or more. By March 2, we had the ability to move high priority applicants (i.e., those with strong prima facie) within seven working days, and our goal is to reduce the time for all others to as few as seven working days as well.

We accomplished these changes by increasing the number of INS interviewers from 3 to 7, and nearly doubling the number of State Department-hired case processors (from 16 to 29). (The article did mention this increase in staff.)

III. Additional changes that have been/will be made.

On March 1, the Immigration and Naturalization Service implemented a detailed plan to for continuous training and monitoring of INS adjudicators in Haiti, to ensure that they provide applicants with fair hearings.

In late February, an interagency working group was established to implement further improvements based on recommendations of a technical team that travelled to Haiti after

the inauguration. In particular, the group will examine opening of processing centers in other parts of Haiti, and hiring additional personnel to identify and process those persons who may fear going into the processing centers to apply for refugee status.

Status of the Norde Case

INS's decision to deny Ferleau Norde's refugee application in Port-au-Prince has attracted a great deal of press attention. Observers say that Norde's case, most recently mentioned in the March 7 New York Times, "exemplifies the flaws" in the United States' approach to refugee processing in Haiti.

The case appears to have been badly handled, though most of the problems with it seem to have occurred before recent efforts to improve in-country processing.

This appears to be the procedural history of the application:

On October 29, 1992, INS received a letter on Norde's behalf from the National Coalition for Haitian Refugees.

He was "pre-interviewed" in Haiti by the private organization contracted by the State Department to conduct such interviews, and this organization found that his credibility was "strong".

After interviewing Norde on November 9, an Immigration and Naturalization Service officer found his testimony not to be credible and "strongly recommended" that the application be denied. Noting that Norde's testimony was quite specific and thus could be verified easily, the INS officer in charge set the matter aside for an investigation by embassy officials. But no investigation appears to have been taken.

On January 26, 1993, a new officer in charge accepted the initial recommendation to deny the claim. A denial letter was signed at INS's Mexico City office.

After the case first appeared in the American press in early February, INS officials in Haiti decided to issue a "call-in letter" requesting that Norde come back to the refugee processing center. But staff of the Refugee Processing Center had not yet informed Norde of this reconsideration before the most recent Times article was written.

In the wake of the recent New York Times article, the State Department is trying to reach Norde by phone, to inform him of his right to request that INS reconsider its decision.

We are looking into the reasons for the delay in informing Norde of this reconsideration. To the extent that the delay is due to understaffing at the Refugee Processing Center, augmenting the staff ought to help address this kind of situation.

NATIONAL SECURITY COUNCIL

09-Mar-1993 11:46 EDT

UNCLASSIFIED

MEMORANDUM FOR: SEE BELOW

FROM: Eric P. Schwartz
(SCHWARTZ)

SUBJECT: Qs and As: Haitian court case

Nancy/Paul:

Here is the E-mailed version of the Qs and As on the court case. Paul should already have received the disk, as I could not get my E-mail to work and had my secretary run it up to him.

Sorry for the mix-up; I didn't know Paul had not received this until I heard from him at about 11:25.

Distribution:

FOR: Nancy Soderberg	(SODERBERG)
FOR: Paul Clarke	(CLARKE)
CC: Records	(RECORDS)
CC: Richard E. Feinberg	(FEINBERG)
CC: Richard A. Clarke	(CLARKER)
CC: Barbro A. Owens-Kirkpatrick	(OWENS)

Additional Header Information Follows

Date Created: 09-Mar-1993 11:42
Deletable Flag: N
DOCNUM: 002134
VMS Filename: OA\$SHARE14:ZUOUGTDC7.WPL
A1 Folder: MAR93
Message Format:
Message Status: NOTED
Date Modified: 09-Mar-1993 11:42
Forward Flag: YES
Read-Receipt Requested: NO
Delivery-Receipt Requested: NO
Message Priority: FIRST_CLASS

NATIONAL SECURITY COUNCIL

09-Mar-1993 11:37 EDT

UNCLASSIFIED

MEMORANDUM FOR:

Eric P. Schwartz

(SCHWARTZ)

FROM: Eric P. Schwartz
(SCHWARTZ)

SUBJECT: Qs and As on Haiti

CC: Records

(RECORDS)

Qs and As: The second court case on Haitians

Background: This case is part of the same litigation in which the Administration defended the right of the U.S. government to return to Haiti, without a prior hearing, asylum seekers intercepted in international waters.

The issues in this case, however, are different than the issues in the direct return case argued on March 2.

This case involves 262 Haitians detained on Guantanamo Bay. Most have tested positive for the HIV virus, the rest are family members of the HIV positive individuals. All were deemed to have credible claims to refugee status and would have been sent to the U.S. to pursue asylum claims had they not been HIV positive.

The President has not yet decided whether to 1) allow some or all of these applicants into the U.S. to pursue asylum claims, 2) keep them on Guantanamo; or 3) return them (the least likely outcome in the short term, due to the fact that they have credible claims to persecution).

The major legal issue in this case is whether these applicants have a right to constitutional due process guarantees, such as access to counsel during the processing of their claims. As a matter of policy, we have permitted lawyers for the Haitians to have access to their clients, but we maintain that we are not obligated to do so as a matter of law as these aliens are outside the U.S., and the immigration law does not apply. The lawyers for the Haitians are also arguing that it is illegal to exclude these people from the U.S. because of their HIV status.

Q. The New York Times reports that you have once again defended Bush's policy on Haitian refugees. Can you comment?

A. The major legal issue in the case mentioned in the Times report is whether the full panoply of U.S. immigration laws should apply to aliens outside the United States. We believe it does not, and that is the legal position that is being argued by the U.S. Government in court.

Q. Doesn't this represent a change in the President's position?

A. No, the President has never asserted that, as a matter of law, the full range of Immigration Act benefits should apply to aliens outside the U.S.

Q. But aren't you treating Haitians unfairly?

A. In fact, we have permitted lawyers for the Haitians to have access to their clients at Guantanamo. Lawyers have logged dozens, if not hundreds of hours at Guantanamo with their clients. But we have permitted such access as a matter of policy, rather than a matter of law.

Q. Isn't it illegal to treat HIV-positive applicants for asylum different than others seeking asylum?

A. In fact, HIV-positive applicants for refugee status outside the United States do not have a "right" of entry. In fact, are precluded from entry if they are not given "waivers."

Q. The Times reports that advocates for the Haitians claim that conditions on Guantanamo are deplorable. How do you respond?

A. The basic needs of the Haitians are well met at Guantanamo, and efforts have been made to provide the community there with recreational and other facilities. Moreover, we are prepared to make serious and sustained efforts to improve the facility further.

Q. But what are you planning to do with these Haitians?

A. This is a compelling and complicated issue that is still under review. The President is committed to resolving it in a manner that meets the humanitarian needs of the Haitians while avoiding serious problems that entry might impose on severely overburdened public health facilities in the United States.

Q. The Bush Administration at least permitted some of these people to come to the U.S. in compelling humanitarian circumstances. Are you continuing that practice.

A. We are continuing this practice of case-by-case humanitarian parole for humanitarian reasons, such as the need to obtain medical treatment not available at Guantanamo. Over the past several days, the Attorney General has "paroled" into the United States at least four persons for these reasons.

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	From Eric Schwartz re: Draft Memo to Tony Lake on Ogata Meeting (6 pages)	03/09/1993	P1/b(1)

COLLECTION:

Clinton Presidential Records
NSC Emails
A1-Record (Jan 93-Sept 94) ([Schwartz and Cuba...])
OA/Box Number: 570000

FOLDER TITLE:

[02/04/1993-05/04/1993]

2011-1039-F
rs1844

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

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NATIONAL SECURITY COUNCIL

09-Mar-1993 17:51 EDT

UNCLASSIFIED

MEMORANDUM FOR:

Eric P. Schwartz

(SCHWARTZ)

FROM:

Natalie S. Wozniak
(WOZNIAK)

SUBJECT:

Haiti Press Guidance

Second Court Case on Haitians

[Background: This case is part of the same litigation in which the Administration defended the right of the U.S. government to return to Haiti, without a prior hearing, asylum seekers intercepted in international waters.

The issues in this case, however, are different than the issues in the direct return case argued on March 2.

This case involves 262 Haitians detained on Guantanamo Bay. Most have tested positive for the HIV virus, the rest are family members of the HIV positive individuals. All were deemed to have credible claims to refugee status and would have been sent to the U.S. to pursue asylum claims had they not been HIV positive.

The President has not yet decided whether to 1) allow some or all of these applicants into the U.S. to pursue asylum claims, 2) keep them on Guantanamo; or 3) return them (the least likely outcome in the short term, due to the fact that they have credible claims to persecution).

The major legal issue in this case is whether these applicants have a right to constitutional due process guarantees, such as access to counsel during the processing of their claims. As a matter of policy, we have permitted lawyers for the Haitians to have access to their clients, but we maintain that we are not obligated to do so as a matter of law as these aliens are outside the U.S., and the immigration law does not apply. The lawyers for the Haitians are also arguing that it is illegal to exclude these people from the U.S. because of their HIV status.]

Talking Points

- The President has concluded that the practice of direct return should be maintained to prevent a human tragedy while we are engaged in efforts to restore democracy to Haiti.
- Such a step was necessary to avert a human tragedy.
- The case of the Haitians at Guantanamo is under review.

- The President believes that our international legal obligations are being met.
- Q: The New York Times reports that you have once again defended Bush's policy on Haitian refugees. Can you comment?
- A: The major legal issue in the case mentioned in the Times report is whether the full panoply of U.S. immigration laws should apply to aliens outside the United States. We believe it does not, and that is the legal position that is being argued by the U.S. Government in court.
- Q: Doesn't this represent a change in the President's position?
- A: No, the President has never asserted that, as a matter of law, the full range of Immigration Act benefits should apply to aliens outside the U.S.
- Q: But aren't you treating Haitians unfairly?
- A: In fact, we have permitted lawyers for the Haitians to have access to their clients at Guantanamo. Lawyers have logged dozens, if not hundreds of hours at Guantanamo with their clients. But we have permitted such access as a matter of policy, rather than a matter of law.
- Q: Isn't it illegal to treat HIV-positive applicants for asylum different than others seeking asylum?
- A: In fact, HIV-positive applicants for refugee status outside the United States do not have a "right" of entry. In fact, are precluded from entry if they are not given "waivers."
- Q: The Times reports that advocates for the Haitians claim that conditions on Guantanamo are deplorable. How do you respond?
- A: The basic needs of the Haitians are well met at Guantanamo, and efforts have been made to provide the community there with recreational and other facilities. We are reviewing the situation.
- Q: But what are you planning to do with these Haitians?
- A: This is a compelling and complicated issue that is still under review.
- Q: The Bush Administration at least permitted some of these people to come to the U.S. in compelling humanitarian circumstances. Are you continuing that practice.
- A: We are continuing this practice of case-by-case humanitarian parole for humanitarian reasons, such as the need to obtain medical treatment not available at

Guantanamo. Over the past several days, the Attorney General has "paroled" into the United States at least four persons for these reasons.

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NATIONAL SECURITY COUNCIL

10-Mar-1993 10:29 EDT

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MEMORANDUM FOR:

Nancy Soderberg

(SODERBERG)

FROM:

Eric P. Schwartz
(SCHWARTZ)

SUBJECT:

Norde case in Haiti

Nancy:

On your inquiry about the Norde case in Haiti -- the guy who was deemed not to qualify for refugee status and was the subject of the New York Times piece -- see my memo #1320, which should be in your box. It was a screw-up, and, as the memo indicates, we are following up, both on the case and the more general issue of how to avoid this kind of problem in the future.

CC: Records

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NATIONAL SECURITY COUNCIL

12-Mar-1993 09:03 EDT

UNCLASSIFIED

MEMORANDUM FOR: SEE BELOW

FROM: Eric P. Schwartz
(SCHWARTZ)

SUBJECT: Press guidance for Friday

Qs and As from Eric Schwartz

Q. The New York Times reports that State Department slip-ups and faulty interagency communication makes it easy for terrorists to enter the United States. They note that one of the suspects in the World Trade Center bombing was here on an expired tourist visa. What are you doing on this issue?

A. These issues are under careful review by a number of agencies, the goal of which is to identify improvements to prevent this sort of thing from happening.

Q. On a motion to instruct conferees, a House vote yesterday supported the Senate ban on immigration into the U.S. by people infected with the virus that causes AIDs. What is your position on this vote?

A. As we have said, we need to work with Congress on this issue, and take Congressional sentiment into account as we review policy on this issue.

Q. But do you support the House action and, if so, doesn't this represent another reversal of a campaign promise?

A. [Option 1] As this issue is currently under Administration review, we are not inclined to offer a position on this measure at this point.

[Option 2] Because this this issue is under Administration review, and because we would not act without extensive consultation with Congress in any event, we would prefer to see legislative action on this issue deferred.

[Note: I would recommend option 2 for four reasons: 1) it will better satisfy the liberals and the advocates without ignoring concerns of the conservatives; 2) it calls for permitting this decision to remain in the executive branch, where it should be; 3) it will not be seen as something less than a complete backdown from the campaign statement; and 4) it is, in substantive terms, the better position, as it makes little substantive sense to be targetting HIV by itself.]

Q. The Washington Post reports that a military deserter who was granted refugee status by Haitian authorities was jailed yesterday as he attempted to leave the country. Is this true? What are you doing about it? Doesn't this point up the inadequacy of in-country processing?

A. The report is correct, and we have protested this arrest in the strongest possible terms and at the highest possible levels in Haiti. We are following this matter very closely, will continue to do so until this man is released, and will hold Haitian authorities responsible for the treatment of this individual.

We are shocked at this action, which we hope and expect will be speedily rectified.

We see this matter as an important test of the willingness of the defacto regime and the Haitian High Command to work for a tangible improvement in the human rights situation in Haiti, and to cooperate with the basic purposes of the international effort this regard.

We understand that in-country processing is not risk free, but we believe it is far less risky than the alternative: flight by boat. In fact, our strenuous efforts in this incident reflects our commitment to attempting to ensure the safety of those who use the in-country procedures.

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NATIONAL SECURITY COUNCIL

12-Mar-1993 11:29 EDT

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MEMORANDUM FOR:

M. Brooke Darby	(DARBY)
Nancy Soderberg	(SODERBERG)
Natalie S. Wozniak	(WOZNIAK)
Paul Clarke	(CLARKE)

FROM: Eric P. Schwartz
(SCHWARTZ)

SUBJECT: Supplementary answers: Qs and As on Haitian arrested

Supplementary press guidance: Haitian asylum applicant arrested
in Port-au-Prince.

- The overwhelming majority of Haitians approved for refugee status under the in-country refugee program have been allowed to leave Haiti for the U.S. without incident.
- In the one or two cases where there has been a problem in the past, the Embassy has been able to resolve it immediately.
- All refugees departing Haiti are accompanied to the airport by officials from the refugee processing center.
- This ensures that the embassy is immediately aware of any problems arising during departure, allowing them to take appropriate action without delay.

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. email	Schwartz to Samuel Berger re: Case of Haitian Refugee William Corascelan (2 pages)	03/15/1993	P1/b(1)

COLLECTION:

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A1-Record (Jan 93-Sept 94) ([Schwartz and Cuba...])
OA/Box Number: 570000

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[02/04/1993-05/04/1993]

2011-1039-F
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NATIONAL SECURITY COUNCIL

16-Mar-1993 09:06 EDT

UNCLASSIFIED

MEMORANDUM FOR: SEE BELOW

FROM: Natalie S. Wozniak
(WOZNIAK)

SUBJECT: International News Summary -- March 16, 1993

INTERNATIONAL NEWS SUMMARY -- NSC PRESS OFFICE
TUESDAY, MARCH 16, 1993

North Korea Hit by First Sanctions: Imposing the first of what is expected to be a series of economic sanctions against North Korea, President Kim Young Sam of South Korea ordered that all South Korean moves to invest in the North's crippled economy be blocked until North Korea reverses its decision to withdraw from the treaty to halt the spread of nuclear weapons. (NYT A3)

North Korean authorities, warning of impending war, have ordered a dusk-to-dawn blackout and put the nation on high alert. The isolated Stalinist nation's chief diplomat in Geneva warned that "war could break out at any moment." (WT A1)

UN Report Urges Sweeping Changes in Salvador Army: A UN-sponsored commission that investigated the worst human rights abuses of El Salvador's civil war called for dismissing senior military officers and barring many government and rebel officials implicated in the abuses from holding leadership posts in government or political parties for at least 10 years. (NYT A1, LAT A3, WP A1)

President Cristiani called for a sweeping amnesty, but leaders of the FMLN said they would not support an amnesty until crucial recommendations of the UN-sponsored report were instituted. (NYT A12, LAT A1, WT A9)

The UN report has focused new attention on President Clinton's promise to make human rights a chief element of U.S. foreign policy. (WT A1)

U.S. Approves British Air Stake in USAir Group: The Clinton Administration approved British Airways' \$300 million investment in struggling USAir Group, Inc., in a move that gives the U.S. leverage in its bid to renegotiate its bilateral aviation agreement with the UK. Transportation Secretary Pena pointedly linked approval of the first installment of British Airways' planned \$750 million investment in USAir in the next five years to the pursuit of a bilateral agreement more to the liking of the Big Three, which have been clamoring for greater access to

British markets. (WSJ A3, LAT A1, NYT D1, WT C1, WP A1)

Clinton Promises Rabin He Won't Cut Aid to Israel: President Clinton assured Prime Minister Yitzhak Rabin of Israel that he would oppose any attempt to reduce military and economic assistance to Israel for years to come. If today's meeting is any indication, the President and the Prime Minister will get along much better than their predecessors did. (NYT A8, LAT A2)

Backed by new offers of political, military and financial support from Washington, Mr. Rabin expanded his offer to cut a peace deal with Syria but warned that he first wants the conditions spelled out before removing troops from the strategic plateau. Rabin

- 2 -

said, "we made it clear that we accept the principle of withdrawal of the armed forces of Israel on the Golan Heights, to secure the recognized boundaries, but we'll not enter negotiations on the dimension of the withdrawal without knowing what kind of peace Syria offers us." (WT A1, WP A10)

Bosnian Serbs Yielding to UN General's Stand: General Morillon won at least a partial victory: permission from Bosnian Serbs for aid convoys to pass into Srebrenica, a Muslim enclave in eastern Bosnia where he has been encamped with refugees. (NYT A8)

Bosnia: Tank-backed Serb nationalist forces overran the isolated Slavic Muslim enclave of Konjevic Polje, the second such outpost in eastern Bosnia-Herzegovina to fall before a relentless two-week-old Serb offensive in the region. (WP A12)

California Bases May Get New Life: Members of the independent panel that will review the Defense Department's base-closing plan expressed concern that California may have been hit too hard by the Pentagon proposal -- suggesting they may make some changes before the list becomes law. During the commission's opening hearing, members repeatedly raised concerns that the state would suffer an unacceptable economic burden if the Pentagon has its way and closes eight major bases. (LAT A1)

China's Agenda: Market Reforms and Dictatorship: Premier Li Peng, speaking at the annual session of China's rubber-stamp Parliament, said that market reforms will be pushed forward but that Beijing will continue to view political liberalization as a threat to stability and development. The generally moderate speech reflected a new-found self-confidence among China's top leaders that they have ridden out the domestic and international political storms of recent years. (LAT A2, WP A11)

\$8,000 in Bomb Suspects' Account Apparently Isn't From Terrorists: Senior federal officials said they have uncovered

information that suggests the \$8,000 transferred to the account of suspects in the World Trade Center bombing was innocent in origin and does not link them to an international terrorist organization as they initially suspected. (WP A10)

ANALYSIS AND OPINION

A Bad Retreat, in the Air: A partial merger of British airways and USAir will help financially shaky USAir become a worthier competitor. Yet the decision unfortunately retreats from the Bush Administration's sensible policy to hold up greater British access to U.S. markets until Britain eases limits on U.S. carriers' use of London airports. Britain hasn't budged. Neither should the U.S. The gains to domestic travelers from

- 3 -

having a healthier USAir fighting for their dollar are relatively small compared with the enormous benefit of opening up international travel to vigorous competition. (NYT A20)

Avoid a Bloodbath in Haiti

Set a Deadline: Haitian President Aristide writes that the cornerstone of our plan is for the U.S., working with the UN and the OAS, to set a date certain for the restoration of the elected government -- to specify the day when democracy will be re-established. Instead of simply blockading Haitians inside the country, the U.S. could use its Navy to make the economic embargo effective, stopping the delivery of all oil and weapons. We must act quickly. If the world fails to respond, it is not only Haiti that perishes but the hopes of all nations that in this new world order, democracy -- at all costs -- will be cherished. (NYT A21)

Both Sides, Retreat: Anna Husarska writes that perhaps the re-establishment of democracy is more important than the return of the democratically-elected President, who, while symbolizing democracy for his supporters, did not guarantee it for opponents. If Jean-Bertrand Aristide agreed to a pact that would break the stalemate that is destroying Haiti, he would prove he had genuine concern for his country's future. The pact Bill Clinton could offer should provide for Father Aristide's return as constitutional president with two conditions: he would immediately declare full amnesty for the putschists and would announce his imminent resignation. (NYT A21)

#

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FOR: Roy Hamilton	(HAMILTON@WHSR@CCGATE@VAXA)
FOR: Miles R. Murphy	(MURPHY@WHSR@CCGATE@VAXA)
FOR: Elisabeth A. Healey	(HEALEY@WHSR@CCGATE@VAXA)
FOR: Russell J. Buzalko	(BUZALKO@WHSR@CCGATE@VAXA)
FOR: Katherine E. O'Loughlin	(OLOUGHLIN@WHSR@CCGATE@VAXA)
FOR: Stephen G. Niemerski	(NIEMERSKI@WHSR@CCGATE@VAXA)
FOR: Remote Addressee	(MCGEATH@WHSR@CCGATE@OEOb)
FOR: John K. Naland	(NALAND@WHSR@CCGATE@VAXA)
FOR: Scott Burlingame	(BURLINGAME@WHSR@CCGATE@VAXA)
FOR: Michael Unrue	(UNRUE@WHSR@CCGATE@VAXA)
FOR: William H. Spencer	(SPENCER@A1@WHSR)
FOR: Sandra Smigay	(SMIGAY@WHSR@CCGATE@VAXA)
FOR: Thomas G. Crispell	(CRISPELL@WHSR@CCGATE@VAXA)
FOR: David R. Bailey	(BAILEY@WHSR@CCGATE@VAXA)
FOR: Michael Laybourne	(LAYBOURNE@WHSR@CCGATE@VAXA)
CC: Records	(RECORDS)

Additional Header Information Follows

Date Created: 16-Mar-1993 09:03
Deletable Flag: N
DOCNUM: 002576
VMS Filename: OA\$SHARE23:ZUPBCY3DZ.WPL
A1 Folder: MAR93
Message Format:
Message Status: NOTED
Date Modified: 16-Mar-1993 09:03

Forward Flag: YES

Read-Receipt Requested: NO

Delivery-Receipt Requested: NO

Message Priority: FIRST_CLASS

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
003. email	From Robert Morley re: Message for Nancy Soderberg (2 pages)	03/18/1993	P1/b(1)

COLLECTION:

Clinton Presidential Records
NSC Emails
A1-Record (Jan 93-Sept 94) ([Schwartz and Cuba...])
OA/Box Number: 570000

FOLDER TITLE:

[02/04/1993-05/04/1993]

2011-1039-F
rs1844

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

NATIONAL SECURITY COUNCIL

22-Mar-1993 20:06 EDT

UNCLASSIFIED

MEMORANDUM FOR:

Nancy Soderberg (SODERBERG)
Paul Clarke (CLARKE)

FROM: Eric P. Schwartz
(SCHWARTZ)

SUBJECT: Haitian refugees: Qs and As

Qs and As: Maintaining the practice of direct return.

Q. When, if ever, do you plan to end the practice of direct return of Haitian boat people?

A. I am hopeful that we will soon achieve a political settlement in Haiti and put an end to the conditions that lead people to flee. A political settlement is the only permanent solution to the problem of boat departures. As I have mentioned, the practice of direct return is under continual review and will be modified when conditions permit. In the meantime, we are making vigorous efforts to improve in-country refugee processing.

Q. But doesn't the arrest of an asylum-seeker approved for the refugee program demonstrate weaknesses in the in-country processing program?

A. Our successful effort to secure this refugee's release and resettlement in the U.S. demonstrates our commitment to the safety and security of those who utilize the in-country procedures. And while the procedures are not without some risk, they are certainly less dangerous than departure by boat.

Qs and As: The second court case on the Haitians, currently underway in a New York District Court

Background: This case is part of the same litigation in which the Administration defended the right of the U.S. government to return to Haiti, without a prior hearing, asylum seekers intercepted in international waters.

The issues in this case, however, are different than the issues in the direct return case argued on March 2.

This case involves 252 Haitians detained on Guantanamo Bay. Most have tested positive for the HIV virus, the rest are family members of the HIV positive individuals. All were deemed to have credible claims to refugee status and would have been sent to the U.S. to pursue asylum claims had they not been HIV positive.

The major policy issue in this case is whether to permit some or all of the Haitians into the U.S. to pursue their asylum claims. The major legal issue in this case is whether these applicants have a right to constitutional due process guarantees, such as access to counsel during interviews that might take place at Guantanamo. As a matter of policy, we have permitted lawyers for the Haitians to have access to their clients, but we maintain that we are not obligated to do so as a matter of law as these aliens are outside the U.S., and the immigration law does not apply. The lawyers for the Haitians are also arguing that it is illegal to exclude these people from the U.S. because of their HIV status, and that it is illegal to detain them indefinitely at Guantanamo.

Q. What are you planning to do about the Haitians at Guantanamo?

A. This is a complicated and compelling issue that is now under review. We seek a solution that meets the humanitarian needs of

the Haitians while avoiding problems for severely overburdened state and local health care facilities.

Q. You announced you were sending a representative to Guantanamo to assess the situation for the Haitians. What did your representative discover?

A. An NSC official was in Guantanamo late last week, and has submitted a report to the White House which is now under review.

Q. Regarding the current court case involving the Haitians on Guantanamo: press reports indicate that you have once again defended Bush's policy on Haitian refugees. Can you comment?

A. The major legal issue in this case is whether the full panoply of U.S. immigration laws should apply to aliens outside the United States. We believe it does not, and that is the legal position that is being argued by the U.S. Government in court.

Q. Doesn't this represent a change in your position?

A. No, I have never asserted that, as a matter of law, the full range of Immigration Act benefits should apply to aliens outside the U.S.

Q. Advocates for the Haitians claim that conditions on Guantanamo are deplorable. How do you respond?

A. The basic needs of the Haitians are well met at Guantanamo, and efforts have been made to provide the community there with recreational and other facilities. Moreover, we are prepared to make serious and sustained efforts to improve the facility further.

CC: Records

(RECORDS)

Additional Header Information Follows

Date Created: 22-Mar-1993 20:06
Deletable Flag: N
DOCNUM: 003051
VMS Filename: OA\$SHARE14:ZUPHSQ106.WPL
A1 Folder: MAR93
Message Format:
Message Status: NOTED
Date Modified: 22-Mar-1993 20:06
Forward Flag: YES
Read-Receipt Requested: NO
Delivery-Receipt Requested: NO
Message Priority: FIRST_CLASS

NATIONAL SECURITY COUNCIL

23-Mar-1993 10:33 EDT

UNCLASSIFIED

MEMORANDUM FOR: SEE BELOW

FROM: Eric P. Schwartz
(SCHWARTZ)

SUBJECT: Cables on in-country refugee processing

Will:

Attached is the second action cable I have seen over the past two weeks dealing with in-country processing in Haiti. This cable and the prior one each referenced the NSC. After the first one went out without being crosshatched, I told Priscilla Clapp at State/RP to please let us review such cables before sending.

I then discovered that the attached (second) cable had been sent out without a crosshatch. (Admittedly, Priscilla was out of town last week, but RP still should have sent the cable over.)

I've reminded RP again about the importance of our seeing a cable like this one -- i.e., one that deals with an issue of considerable political importance and which explicitly references NSC approval of a course of action. Nonetheless, I'd appreciate your putting the word across through your channel.

Thanks.

Distribution:

FOR: William H. Itoh	(ITOH)
CC: Records	(RECORDS)
CC: Records	(RECORDS)
CC: Records	(RECORDS)
CC: Richard A. Clarke	(CLARKER)
CC: Rand R. Beers	(BEERS)

Additional Header Information Follows

Date Created: 23-Mar-1993 10:24
Deletable Flag: N
DOCNUM: 003081
VMS Filename: OA\$SHARE30:ZUPIF2P1I.WPL
A1 Folder: MAR93
Message Format:
Message Status: NOTED
Date Modified: 23-Mar-1993 10:33
Forward Flag: YES
Read-Receipt Requested: NO
Delivery-Receipt Requested: NO
Message Priority: FIRST_CLASS

NATIONAL SECURITY COUNCIL

19-Mar-1993 07:18 EDT

MEMORANDUM FOR:

SCHWARTZ@OEOB@MRGATE

FROM:

VMSMail User PHILLIPS
(PHILLIPS@OEOB@MRGATE)

SUBJECT:

GESCAN

NATIONAL SECURITY COUNCIL

07-Apr-1993 14:56 EDT

~~CONFIDENTIAL~~

MEMORANDUM FOR:

Richard E. Feinberg

(FEINBERG)

FROM:

Eric P. Schwartz
(SCHWARTZ)

SUBJECT:

Inserts for Sandy's Haiti update memo to the Preside

Update on in-country processing

We have implemented a series of improvements in the in-country refugee processing program to enhance its fairness and accessibility, as well as to reduce the processing time for applications in general and high priority cases in particular. As you know, we have doubled the staff of U.S. officials and contract employees at the Refugee Processing Center in Port-au-Prince, and have streamlined procedures so that we can process high priority cases in as few as seven working days. The Immigration and Naturalization Service has implemented a plan for selection, training and monitoring of INS adjudicators in Haiti, to ensure that applicants are provided with the fairest possible hearings.

In addition, we are moving forward quickly on additional improvements. Haitian boat people being returned by the Coast Guard will be provided with refugee applications and tape-recorded information on application procedures while still on the Coast Guard cutters. This will enable officials to better identify high priority cases, and also to identify more easily those Haitians who may be at imminent risk if subjected to dockside procedures. Such migrants could be kept aboard the cutters and processed by the Immigration and Naturalization Service without being returned to Haiti. (In fact, current guidelines provide for such extraordinary procedures, but they have seldom if ever been utilized.)

Finally, we are establishing regional processing centers in two provincial cities in Haiti, and expect that the first will begin operations in May.

THE HAITIANS ON GUANTANAMO

Some 45 Haitian AIDS sufferers who were the subjects of a March 26 interim order of a New York Federal District court are arriving in New York and Florida this week. In cooperation with private voluntary organizations such as the U.S. Catholic Conference, the Departments of Defense, Justice and HHS are coordinating a resettlement plan which will place most of this group with family members or volunteers.

We have not received any expressions of protest from the Hill or

DECLASSIFIED
E.O. 13526
White House Guidelines, September 11, 2006
By *W* NARA, Date *3/25/16*
2011-1039-F

from State or local governments regarding the entry of this group of Haitians.

About 200 Haitians remain on Guantanamo. The Federal District Court trial regarding their due process rights has just concluded, and a final order in the case is expected shortly. The judge is likely to find that they are entitled to certain due process guarantees, though it is unclear what remedy he will order.

CC: Records	(RECORDS)
CC: Richard A. Clarke	(CLARKER)
CC: Rand R. Beers	(BEERS)
CC: Barbro A. Owens-Kirkpatrick	(OWENS)

Additional Header Information Follows

Date Created: 07-Apr-1993 14:54
Deletable Flag: Y
DOCNUM: 004076
VMS Filename: OA\$SHARE55:ZUPXLC6OG.WPL
A1 Folder: APR93
Message Format:
Message Status: READ
Date Modified: 07-Apr-1993 14:54
Forward Flag: YES
Read-Receipt Requested: NO
Delivery-Receipt Requested: NO
Message Priority: FIRST_CLASS

NATIONAL SECURITY COUNCIL

07-Apr-1993 17:41 EDT

UNCLASSIFIED

MEMORANDUM FOR:

Barbro A. Owens-Kirkpatrick (OWENS)

FROM:

Eric P. Schwartz
(SCHWARTZ)

SUBJECT:

Additions/suggestions: letter to Ch. Hamilton on Hai

Memo to Tony from BOK

Second para: after "that" on line 1, add "most"

delete "very much" on line 2.

After the last paragraph:

Because Chairman Hamilton raises the somewhat complicated issue of "temporary protected status" for Haitians in the United States, the draft memorandum to the President provides a brief description of that issue.

Memo to the Pres

In the background section, add:

On the Haitian refugee issue, he urges that the U.S. 1) improve in-country processing; 2) "establish a temporary refuge for Haitians outside the United States" (this is an implicit call for an end to direct return of Haitian boat people, but the Chairman is unclear on whether we should provide refuge to all who leave or only to genuine refugees); and 3) provide "temporary protected status" (TPS) for Haitians in the United States.

TPS would enable Haitians already in the U.S. to remain here for the time being (subject to terms and conditions set by the Attorney General), even if they are otherwise deportable. This would be designed to benefit the 10,000 Haitians who were "screened in" on Guantanamo and entered the U.S. under the Attorney General's parole authority during the exodus from Haiti in 1991-2. Haitians in this group were given permission to remain for varying periods, during which time they were expected to apply for asylum. While their asylum applications are pending, they are not deportable. However, due to overwhelming demand on the voluntary organizations that assist in case preparation, many of the Haitians have not yet applied for asylum or have sought individual extensions of parole. TPS (or extension of parole for the entire group) would give this class of Haitians additional time to apply for asylum, and would also reflect recognition that the situation in Haiti remains

unsettled. As mentioned in the enclosed draft to Chairman Hamilton, the TPS issue is currently the subject of an interagency review.

The letter to Hamilton

Para 1, line 4, change "All" to "Most"

Prar 3, last two words, sounds awkward to me.

Para 5, change "emphasize" to "emphasis"

After Para 4, add the following para:

On the Haitian refugee issue, I share your concern about making in-country processing fair and accessible to as many Haitians as possible. Since late January, we have doubled the number of U.S. officials and contract employees involved in case processing. As a result of these and other changes, we have streamlined processing procedures, and now have the ability to move high priority applicants within seven working days (reduced from two months or more).

As you may know, I have authorized expenditure of up to \$5 million from the Emergency Refugee and Migration Assistance Account to finance these and other improvements. In particular, we expect shortly to establish regional refugee processing centers in two provincial cities outside of Port-au-Prince. This will make the process more accessible to those Haitians who do not live near their capital.

I also appreciated receiving your comments on temporary protected status for Haitians who are already in the United States and temporary refuge outside the U.S. for those who depart Haiti by boat. The former issue is now under review. Let me assure you that decisions we reach will be designed to treat Haitians in the United States with sensitivity and fairness.

The latter issue -- temporary refuge outside the U.S. for those who depart Haiti by boat -- is also one that merits careful and continual consideration. Thus far, however, I have not felt confident that we could both implement your suggestion for temporary refuge and avoid a massive boat exodus that could result in the loss of hundreds of lives. My uncertainty on this issue is heightened by the reluctance of governments in the region to consider use of their territory for holding centers.

Para 5, in lieu of the first sentence, add the following:

As I'm sure you will agree, the ultimate solution to the refugee crisis in Haiti is the return of democracy to Haiti, and Congressional support for our diplomatic strategy on Haiti will be critical to its success.

CC: Records	(RECORDS)
CC: Richard E. Feinberg	(FEINBERG)
CC: Richard A. Clarke	(CLARKER)
CC: Rand R. Beers	(BEERS)

Additional Header Information Follows

Date Created: 07-Apr-1993 17:40
Deletable Flag: Y
DOCNUM: 004102
VMS Filename: OA\$SHARE41:ZUPXP9NVS.WPL
A1 Folder: APR93
Message Format:
Message Status: READ
Date Modified: 07-Apr-1993 17:40
Forward Flag: YES
Read-Receipt Requested: NO
Delivery-Receipt Requested: NO
Message Priority: FIRST_CLASS

Withdrawal/Redaction Marker

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
004. email	Schwartz to Richard Clarke et al. re: Feinberg's Draft (4 pages)	04/07/1993	P1/b(1)

COLLECTION:

Clinton Presidential Records
NSC Emails
A1-Record (Jan 93-Sept 94) ([Schwartz and Cuba...])
OA/Box Number: 570000

FOLDER TITLE:

[02/04/1993-05/04/1993]

2011-1039-F
rs1844

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

NATIONAL SECURITY COUNCIL

08-Apr-1993 11:00 EDT

~~CONFIDENTIAL~~

MEMORANDUM FOR: SEE BELOW

FROM: Eric P. Schwartz
(SCHWARTZ)

SUBJECT: Haitians on Guantanamo

Sandy:

While he made a decision on the first of three issues -- whether or not to seek a stay of the March 26 court order -- the President, so far as I know, did not decide on two others contained in the Guantanamo memo:

1. How to proceed with respect to the other 200 or so Haitians who remain on Guantanamo.
2. Whether to approve implementation of improvements of the facility at Guantanamo.

As you know, the final decision in the District Court case will be issued shortly, and the judge could issue any number of orders. For example, he could:

- simply order that any refugee processing be conducted with counsel and other due process rights;
- order processing with counsel, to be followed by release from confinement of the Haitians (which could presumably include return to Haiti for non-refugees and entry for those deemed to be refugees);
- order immediate release of all the Haitians.

Needless to say, I am geared up for preparing another decision memo the minute the Court order comes down, and will coordinate with Alan Kreczko.

In the meantime, I am inclined to put together an ad hoc group from DOD/JCS, State, HHS, and Justice to move forward on implementing the improvements at Guantanamo recommended in my report. Even if a decision is taken to bring in the Haitians, this will take some time, and there doesn't seem to be any reason not to move forward on improvements.

If you OK such action, I will ensure that you see any plans before they are implemented.

May I take such action?

Distribution:

DECLASSIFIED
E.O. 13526
White House Guidelines, September 11, 2006
By AL NARA, Date 3/24/16
201-1034-F

FOR: Clara E. Kyim	(KYIM)
FOR: Mary C. Emery	(EMERY)
FOR: Wilma G. Hall	(HALL)
FOR: Kristen K. Cicio	(CICIO)
FOR: Katherine M. Mathis	(MATHIS)
CC: Records	(RECORDS)
CC: Joan S. Hunerwadel	(HUNERWADEL)
CC: Richard A. Clarke	(CLARKER)
CC: Richard E. Feinberg	(FEINBERG)
CC: Barbro A. Owens-Kirkpatrick	(OWENS)

Additional Header Information Follows

Date Created: 08-Apr-1993 10:58
Deletable Flag: Y
DOCNUM: 004168
VMS Filename: OA\$SHARE27:ZUPYFPX1G.WPL
A1 Folder: APR93
Message Format:
Message Status: READ
Date Modified: 08-Apr-1993 10:58
Forward Flag: YES
Read-Receipt Requested: NO
Delivery-Receipt Requested: NO
Message Priority: FIRST_CLASS

NATIONAL SECURITY COUNCIL

15-Apr-1993 18:04 EDT

UNCLASSIFIED

MEMORANDUM FOR: SEE BELOW

FROM: Eric P. Schwartz
(SCHWARTZ)

SUBJECT: GTMO paragraphs for Alexis Herman

Sandy:

I did not receive until this afternoon the medical and other personal data on the HIV-positive population at GTMO that will enable to me to prepare the paper you requested. I am working on the paper right now.

In the meantime, Chris mentioned that Alexis Herman needed an update for the President for a meeting with Gay leaders. Here it is:

There are currently 187 Haitians remaining at the U.S. naval facility on Guantanamo Bay, Cuba. Most are HIV-positive, the rest are dependents who are HIV-negative. All have been deemed to have "credible claims" to refugee status, but have not been permitted into the United States to pursue their asylum claims.

Since January 20, the Administration has granted entry to some 80 of this group. In general, those who have diagnostic or medical problems that cannot be treated at Guantanamo, as well as women in the later stages of pregnancy have been permitted entry. In addition, the Administration facilitated entry of 45 of this 80 when you chose not to seek a stay of a judge's order that Haitians with specified low T-Cell counts or percentages (measures of the deterioration of the immune system) also be permitted entry.

The judge's order came in a District Court case in which the Haitians are claiming that they should be accorded constitutional due process rights on Guantanamo. A final order in this case is expected shortly. While the judge is expected to rule in favor of the Haitians, it is not clear what remedy he will order.

Suggested talking points:

- This is a compelling issue that needs to be resolved in a manner that meets the humanitarian needs of the Haitians while being sensitive to concerns of localities about burdens on their public health facilities.
- As you know, this issue has been complicated by strong expressions of congressional support for the HIV immigration exclusion.

- I might mention that, since January 20, we have reduced the population on Guantanamo by about one-third, permitting entry to some 80 Haitians for various humanitarian reasons.
- I will continue to explore possibilities for resolving this issue once and for all.

Distribution:

FOR: Clara E. Kyim	(KYIM)
FOR: Mary C. Emery	(EMERY)
FOR: Wilma G. Hall	(HALL)
FOR: Kristen K. Cicio	(CICIO)
FOR: Katherine M. Mathis	(MATHIS)
CC: Records	(RECORDS)
CC: Richard A. Clarke	(CLARKER)

Additional Header Information Follows

Date Created: 15-Apr-1993 18:03
Deletable Flag: Y
DOCNUM: 004643
VMS Filename: OA\$SHARE13:ZUQFPTWXE.WPL
A1 Folder: APR93
Message Format:
Message Status: READ
Date Modified: 15-Apr-1993 18:03
Forward Flag: YES
Read-Receipt Requested: NO
Delivery-Receipt Requested: NO
Message Priority: FIRST_CLASS

NATIONAL SECURITY COUNCIL

16-Apr-1993 14:33 EDT

UNCLASSIFIED

MEMORANDUM FOR:

Barbro A. Owens-Kirkpatrick (OWENS)
Alan J. Kreczko (KRECZKO)

FROM: Eric P. Schwartz
(SCHWARTZ)

SUBJECT: Action 2475I -- request for concurrence by COB today

INFORMATION

MEMORANDUM FOR THE PRESIDENT

FROM: ANTHONY LAKE
SAMUEL BERGER

SUBJECT: Remaining HIV-positive Haitians at Guantanamo Bay,
Cuba

I. CURRENT SITUATION

There are now 187 Haitians at Guantanamo Bay, Cuba. There are some 162 adults, nearly all of whom are HIV-positive, and about 25 children. The small numbers of HIV-negative Haitians on Guantanamo include spouses and children of those who are HIV-positive.

Since you assumed office, some 80 Haitians have been permitted entry to the United States to pursue asylum claims. Between January 20 and March 26, the Attorney General permitted entry for Haitians who could not obtain adequate diagnostic treatment or medical care at facilities on Guantanamo, for women in the latter stages of pregnancy, and for those with severely advanced deterioration of their immune systems.

On March 26, a New York District Court judge found that a larger class of Haitians were being denied "adequate" medical care on Guantanamo: those with "T-Cell" counts (a measure of the strength of the immune system) below 200 and with T-Cell percentages of 13% or below. (According to the Center for Disease Control, such persons are considered to have AIDS.) Based on an asserted right to protect the class involved in the litigation, he ordered that the Government provide adequate care. Rather than seek a stay of the order, you chose to permit entry for the entire class affected by the Court order, which numbered

about 45.

It is worth noting that there has been no adverse reaction from conservatives in Congress, from the press or from the public about the entry of this population. This may be because the press reported that you acted to comply with a Court order but did not report that compliance meant deciding against seeking a stay. At the same time, you did receive some credit from liberals on the Hill, refugee advocacy groups and Jesse Jackson, all of whom were aware that you could have contested the order but chose not to.

II. NEXT STEPS IN THE LITIGATION

A final decision and order in the New York Federal District Court case involving these Haitians is pending. At issue is whether these Haitians -- despite their being outside the United States -- are entitled to due process rights (including the right to counsel) guaranteed by the Constitution. While we believe that the Court will probably rule against the Government, it isn't clear what remedy the Court will order. The Court could simply order that the plaintiffs be guaranteed continuous access to counsel, which would amount to requiring that we expand the access we already grant as a matter of policy. The Court could go further and order that we process these Haitians for refugee status and then release them from custody (presumably, that might permit us to return non-refugees to Haiti). Or the Court could decide that all of the Haitians are arbitrarily detained and should be released by a date certain.

Depending on what the Court orders us to do, a negative Court decision could conceivably provide you with an "opportunity" similar to that presented by the interim court order; that is, to permit entry to some or all the Haitians in "compliance" with an order, while keeping open the Government's option to appeal the legal issues in the case.

Unfortunately, it is unclear when the District Court will rule. One of the Government litigators believes a ruling will come within the next several weeks. Another believes that the District Court may await the Supreme Court ruling on the legality of directly returning Haitians without interviewing them prior to return. A Supreme Court ruling affirming the legality of that practice might make moot the legal issues in this case, but would not solve the political/humanitarian problem of what to do with these Haitians on Guantanamo.

III. PERMITTING ENTRY FOR ONE OR MORE ADDITIONAL GROUPS OF HAITIANS FROM GUANTANAMO

You have asked for information on additional groups of Haitians who might be admitted for medically related reasons. We have identified a number of categories that relate both to medical and humanitarian considerations. (Note that there will be some overlap in these groups -- some of the Haitians will be members of more than one of these categories.)

A. HIV-positive Haitians with T-Cell counts below 500

The judge's interim order resulted in entry for all Haitians with T-Cell counts of 200 or below, as well as for those with T-Cell percentages of 13% or below. As a matter of policy, we could expand the category of Haitians permitted entry to those with T-Cell counts of 500 or below (or the equivalent T-Cell percentages). At this level, the immune system has already deteriorated significantly and most AIDS researchers maintain that active anti-HIV treatment should be sought. (Note that such treatment is available on Guantanamo.)

At last report, there were 49 Haitians on Guantanamo who would be included in this category.

The Government litigators point out that if we provide entry based on medical factors such as this one, it could be construed as an admission that we cannot provide adequate care for such persons outside the U.S. and that such persons may have a right of entry. The litigators note that this could conceivably affect the government's arguments in the current case and in future litigation. On balance, however, they seem to feel that the litigation risk is manageable, especially if granting entry was portrayed as a humanitarian policy decision, and not as one taken as a matter of law.

Not surprisingly, the litigators believe our legal position would be strongest if we were to permit entry for all 187 of the Haitians prior to a District Court final order. This would avoid adverse findings of fact (i.e., about conditions on Guantanamo) from a hostile judge which could not be reversed on appeal, and would not imply Government admissions on any of the legal issues in the case.

B. Children of HIV-positive Haitians

There are now about 25 children on Guantanamo. The children have not been tested for HIV, but some probably have the virus. General policy has been to keep the children on Guantanamo if their parents are HIV-positive, so as to maintain family unification. Permitting entry for this entire group of children with their parents (who number about 15) would result in entry of about 40 Haitians.

C. Spouses of refugees already permitted entry into the United States

There are about 14 HIV-positive spouses of Haitians who have been permitted entry into the U.S. Some of those permitted entry came in for medical/humanitarian reasons. Others were HIV-negative and made the difficult decision to separate from their spouses and come to the U.S.

D. Other medical/humanitarian categories

Other categories include HIV-positive pregnant women in the early stages of pregnancy (4) and unaccompanied minors (2, though they are both 18 years of age).

IV. DISPOSITION OF HAITIANS WHO ARE PERMITTED ENTRY

A resettlement task force made up of the Community Relations Service, the Immigration and Naturalization Service, the Department of Health and Human Services, and other agencies has facilitated the process of resettling most of those who have been granted entry thus far. The task force has worked with voluntary resettlement agencies and AIDS and Haitian-American support groups. These organizations take responsibility for settling Haitians (often with family members), and providing access to counselling, financial and medical assistance, etc.

The voluntary agencies have case-workers that provide such assistance for one year, and the support groups provide similar assistance. During the first three months after entry, CRS asks that voluntary agencies and support groups have intensive contact with the entrants, and the voluntary groups report to CRS on a continual basis.

If a decision were made to permit entry of some or all of the remainder of the Haitians, we could increase contact and communication between the voluntary organizations and the Haitians. CRS maintains that the current resettlement program includes "safe-sex" counselling, but we could review such counselling to ensure that it is systematic and comprehensive.

Special "Fascell-Stone" (Cuban-Haitian Entrant) legislation provides benefits to Haitians paroled into the United States for the purpose of seeking asylum. This includes costs of initial resettlement, as well SSI and Medicaid benefits. Though states participate in funding these programs, the effect of Fascell-Stone is to make the federal share of benefits larger than for other similarly situated entrants.

According to HHS estimates, the cost to states of the extraordinary medical care required by those who are now at Guantanamo would probably be about \$5 million over the lifetime of this population, assuming that all the Haitians were to fully access Medicaid and other public benefits. This is roughly equivalent to the cost of operating the camp at Guantanamo for 12-18 months. As you know, Section 404 of the Immigration and Nationality Act provides for an Immigration Emergency Fund that contains \$31.4 million and has never been accessed. This fund could be used to reimburse states if large numbers of Haitians were admitted.

V. ISSUES FOR DECISION

1. Should the Attorney General permit entry for one of the groups of Haitians described above? If so, which group?
2. Should any decision on entry await the final order of the District Court?
3. If a decision to permit entry is made, should the Attorney General be requested to make available monies from the Immigration Emergency Fund to reimburse states for the costs of medical care for the entrants?
4. Assuming that at least some Haitians will remain at

Guantanamo for at least the time-being, should the NSC staff convene an interagency group to implement improvements in conditions at Guantanamo, as outlined in the recent NSC staff report on conditions at the camp?

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NATIONAL SECURITY COUNCIL

04-May-1993 12:11 EDT

UNCLASSIFIED

MEMORANDUM FOR: SEE BELOW

FROM: Eric P. Schwartz
(SCHWARTZ)

SUBJECT: For TL's meeting with the CBC

TALKING POINTS: DIRECT RETURN OF HAITIANS

- The repatriation issue has presented the President with an extraordinarily difficult dilemma: how to provide fairness to Haitians seeking refugee status without encouraging a boat exodus that could result in the loss of hundreds if not thousands of lives.
- After a great deal of study and reflection on this issue, the President concluded that a precipitous change in the repatriation policy risked provoking a humanitarian disaster, as thousands of Haitians were either preparing to leave or were contemplating departure from Haiti on or shortly after January 20.
- As a result, the President reluctantly decided to maintain the practice of direct return for the time being.
- However, we regard the current practice as one for exceptional situations.
- It is continually under review and will be adjusted when conditions permit.
- At the same time the President made that decision, he also made two others: first that we must provide a fair and accessible process for Haitians in Haiti who wish to make claims for refugee status and resettlement in the United States; and second, that we must work far more intensively to address the source of the refugee problem by promoting democracy and the return of President Aristide.

Shortly after January 20, the President directed U.S. officials to double the capacity of the Immigration and Naturalization Service to interview refugee applicants in Haiti.

As a result of streamlining procedures and adding staff, we have now reduced processing time from two months or more to as few as seven working days for high priority cases.

And we are taking measures to make the in-country procedures safer and more accessible for Haitians.

In addition to the existing processing center in Port-au-Prince, we are establishing regional processing centers in

two other cities in Haiti.

The first center is now operational and the second will be open within the next several weeks.

The President has directed that up to \$5 million from our Refugee Programs budget be devoted to these and other projects designed to improve in-country processing.

PROMOTING DEMOCRACY IN HAITI

While we will continue these efforts to make it easier for Haitians to take advantage of the U.S. Refugee Program, the only enduring solution to the flight from Haiti is the restoration of democratic government in that country.

This is why the President initiated a vigorous effort to accelerate the negotiating process undertaken by the United Nations and the Organization of American States.

HAITIAN ON GUANTANAMO

This is a complicated and compelling issue which is under review.

The President has devoted considerable time and attention to this question, as he has deep sympathies for the plight of these people and is eager to find a solution that meets their humanitarian needs.

I should mention that since January 20, nearly one-third of the some 270 Haitians who had been on Guantanamo have been permitted entry into the United States, and the population of Haitians at the facility is down to about 180.

The reduction has resulted from our practice of "humanitarian parole" for those who have (or could develop) medical conditions that are not easily treated at Guantanamo.

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